

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
COURT FILE NO. 10-CV-01643 DSD/AJB**

Eric C. Johnson,

Plaintiff,

AFFIDAVIT OF TRISTA M. ROY

v.

ADP Screening and Selection Services,
Inc.; and Robert Half International,
Inc.,

Defendants.

My name is Trista M. Roy and I make the following statement with regard to the above-entitled matter upon my own knowledge and under oath:

- 1) I am one of the attorneys representing the Plaintiff in this matter.
- 2) Discovery in this litigation is ongoing. To date, three depositions have been taken and written discovery requests have been served upon both Defendants. Defendant ADP has provided responses while Defendant RHI's are not due until November 24, 2010. A true and correct copy of the outstanding discovery requests served upon Defendant RHI is attached hereto as Exhibit A.
- 3) Upon receipt of Defendant RHI's responses to Plaintiff's written discovery, and assuming those responses are proper and adequate, Plaintiff shall notice the deposition of Defendant RHI's Rule 30(b)(6) Representative.

4) Without Defendant RHI's written discovery responses, Plaintiff cannot present facts essential to his opposition to Defendant RHI's pending Motion for Summary Judgment. Specifically, the following items are essential to the issues raised by Defendant's motion:

INTERROGATORY NO. 12: Please describe the policy and procedure followed by RHI after receipt of a background report containing criminal convictions.

INTERROGATORY NO. 13: Please describe RHI's policy and procedure after sending adverse action notices to job applicants (*see, for example, Plaintiff 025 and 050*) following unfavorable background reports.

INTERROGATORY NO. 14: Who filled the position(s) for which Plaintiff applied and/or was being considered and when were they hired?

INTERROGATORY NO. 19: Please explain why Plaintiff's application was placed "on hold" and what the phrase "on hold" means as stated in the letter dated February 11, 2010. *See Plaintiff 0025.*

REQUEST NO. 12: Please produce any and all training materials you use to instruct your agents and/or employees in FCRA compliance and compliance with your accuracy standards.

5) These discovery requests are relevant to the issue of the overall reasonableness of Defendant RHI's conduct in this case with regard to Plaintiff, the treatment of his employment application, Defendant's actions taken after receipt of the criminal background report, including adverse actions as defined by 15 U.S.C. § 168a(k)(1)(B)(ii), the timing of Defendant's adverse actions with regard to Plaintiff and the date on which it

decided not to hire Plaintiff and/or hired someone else for the positions for which he applied and/or was being considered, and Defendant's policies and procedures in taking adverse action under the particular circumstances presented in this case (i.e. the policy underpinning its decision to give Plaintiff only 10 days to rectify Defendant ADP's false and defamatory report).

6) In addition, Plaintiff needs the deposition testimony of Defendant's representative in order to address the arguments raised in Defendant's Motion regarding the areas outlined in paragraph 5.

Further your affiant sayeth not.

s/ Trista M. Roy
Trista M. Roy

Subscribed and sworn to before me
on the 10th day of November, 2010.

s/ Thomas J. Lyons
Notary Public